

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF NEW MEXICO

FILED
at Santa Fe, NM

JUL 20 2006

STATE OF NEW MEXICO *ex rel.*)
State Engineer, *et al.*,)

Plaintiffs,)

v.)

ROMAN ARAGON, *et al.*,)

Defendants.)
_____)

MATTHEW J. DYKMAN
CLERK

69cv07941-BB-ACE

RIO CHAMA ADJUDICATION

Canjilon Creek, Section 3

Subfile No.: CHCJ-003-0044

MOTION TO VACATE DEFAULT JUDGMENT
AND TO ENTER CONSENT ORDER

Plaintiff, the State of New Mexico, *ex rel.* State Engineer ("State") pursuant to Fed. R. Civ. P. 60(b)(6) moves the Court to vacate the August 29, 2002 Order Granting Default Judgment (Docket No. 6835) for MODESTA M. VALENCIA, Subfile No. CHCJ-003-0044, and requests the court to enter the attached consent order for BILL DAVIS and JACKIE WAGNER. As grounds for this motion, Plaintiff states as follows:

1. Bill Davis and Jackie Wagner acquired the interest of defendant Modesta M. Valencia in the property under Subfile CHCJ-003-0044 by warranty deed dated February 8, 2005, filed with the Rio Arriba County Clerk, reception number 200501127.
2. Bill Davis and Jackie Wagner were substituted in this action for defendant Modesta M. Valencia by the June 16, 2006 Order Granting Motion to Substitute (Docket No. 8298).
3. On February 14, 2005, Bill Davis and Jackie Wagner contacted the State claiming additional irrigated acreage in the amount of approximately six (6) acres of the property in this subfile. The State concurs with the additional claims and the entry of a

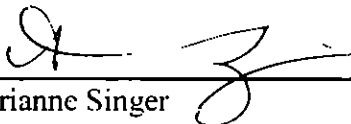
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consent order increasing the amount of irrigated acreage to 16.4. The consent order signed by the parties, for Subfile CHCJ-003-0044, is attached.

4. Bill Davis and Jackie Wagner do not oppose this motion.

WHEREFORE, the State requests the Court to vacate the August 29, 2002 Order Granting Default Judgment (Docket No. 6835) with respect to Subfile CHCJ-003-0044, and only with respect to Subfile CHCJ-003-0044, and for the Court to enter the attached consent order in Subfile CHCJ-003-0044 for BILL DAVIS and JACKIE WAGNER.

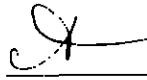

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Singer', is written over a horizontal line.

Arianne Singer
Special Assistant Attorney General
New Mexico Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 827-6150

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading was served on July 20, 2006,
to the parties listed below by first class U.S. mail.


Arianne Singer 

Bill Davis
Jackie Wagner
P.O. Box 619
Canjilon, New Mexico 87515

Special Master Vickie L. Gabin
USDC-DCNM
P.O. Box 2384
Santa Fe, NM 87504-2384

Karla McCall
Data Manager
1315 Sagebrush Dr. SW
Los Lunas, NM 87031

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO *ex rel.*
State Engineer,

Plaintiff,
v.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941 BB-ACE

RIO CHAMA STREAM SYSTEM

Canjilon Creek, Section 3

Subfile No.: CHCJ-003-0044

CONSENT ORDER

The Court, having considered the agreement between the Plaintiff State of New Mexico
and Defendant(s):

BILL DAVIS
JACKIE WAGNER

concerning the Defendant's right to use the public waters of the Rio Chama Stream System,
as set forth below finds:

1. The Court has jurisdiction over the parties and the subject matter of this suit.
2. The State of New Mexico and the above-named Defendant(s) are in agreement concerning certain elements of Defendant's right to divert and use the public waters of the Rio Chama Stream System, Canjilon Creek, Section 3, and by their signatures appearing below, the State and the Defendant(s) have approved and accepted the elements of Defendant's water rights as set forth in paragraph 4 herein.
3. There is no just reason for delay for the entry of a final judgment as to the elements of the claims of the Defendant(s) adjudicated by this order.

4. The right of the Defendant(s) to divert and use the public waters from the Rio Chama Stream System, Canjilon Creek, Section 3, is set forth below:

A. IRRIGATED LANDS (Surface Water Only):

Office of the State Engineer Files No(s) 0611

Priority: Reserved for future determination by court order entered July 25, 2000.

Source of Water: Surface Waters of the Canjilon Creek, a tributary of the Rio Chama.

Purpose of Use: IRRIGATION

Point of Diversion:

Ditch: BRAZITO DITCH

Location: X= 1,592,250 feet Y= 2,001,395 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Irrigated Acreage:

Section 17, Township 26N, Range 05E, N.M.P.M.

Pt. SE $\frac{1}{4}$ 16.4 acres

Total 16.4 acres

As shown on the attached revised Hydrographic Survey Map for Subfile No.: CHCJ-003-0044

Amount of Water: Reserved for future determination by court order entered July 25, 2000.

B. NO RIGHT (Surface Water Only):

Office of the State Engineer Files No(s) 0611

Priority: NONE

Source of Water: Surface Waters of the Canjilon Creek, a tributary of the Rio Chama.

Purpose of Use: NO RIGHT

Point of Diversion:

Ditch: BRAZITO DITCH

Location: X= 1,592,250 feet Y= 2,001,395 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Acreage

Section 17, Township 26N, Range 05E, N.M.P.M.

Pt. SE $\frac{1}{4}$	0.3 acres
Total	0.3 acres

As shown on the attached revised Hydrographic Survey Map for Subfile No.: CHCJ-003-0044

Amount of Water: NONE

5. Defendant(s) have no surface water rights in the Rio Chama Stream System, Canjilon Creek, Section 3, other than those set forth in this order and those other orders entered by this Court in this cause.
6. Defendant(s), his or her successors, representatives, heirs and assigns, should be enjoined from any use of the surface waters of the Rio Chama Stream System, Canjilon Creek, Section 3, except in strict accordance with the water rights described herein.
7. The water rights described herein, if any, are adjudicated subject to the right of any other water right claimant with standing to object prior to the entry of a final decree.

IT IS THEREFORE ORDERED that the rights of the Defendant(s) to divert and use the waters of the Rio Chama Stream System, Canjilon Creek, Section 3, are as set forth herein. The Defendant(s), his or her successors, representatives, heirs and assigns, are enjoined from any diversion or use of the public surface waters of the Rio Chama Stream System, Canjilon Creek, Section 3, except in strict accordance with the rights set forth herein or in other orders of the Court.

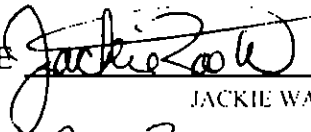
The Court enters this Consent Order as a final judgment as to the elements of Defendant's waters rights set forth herein, subject to the right of other claimants to file objections to individual adjudication orders, and to the entry of the final decree in this proceeding.

UNITED STATES DISTRICT JUDGE

Recommended for approval:

SPECIAL MASTER

SIGNATURE


JACKIE WAGNER

ADDRESS:

P.O. Box 619
Canjilon NM
87515

DATE:

4.4.06

SIGNATURE


BILL DAVIS

ADDRESS:

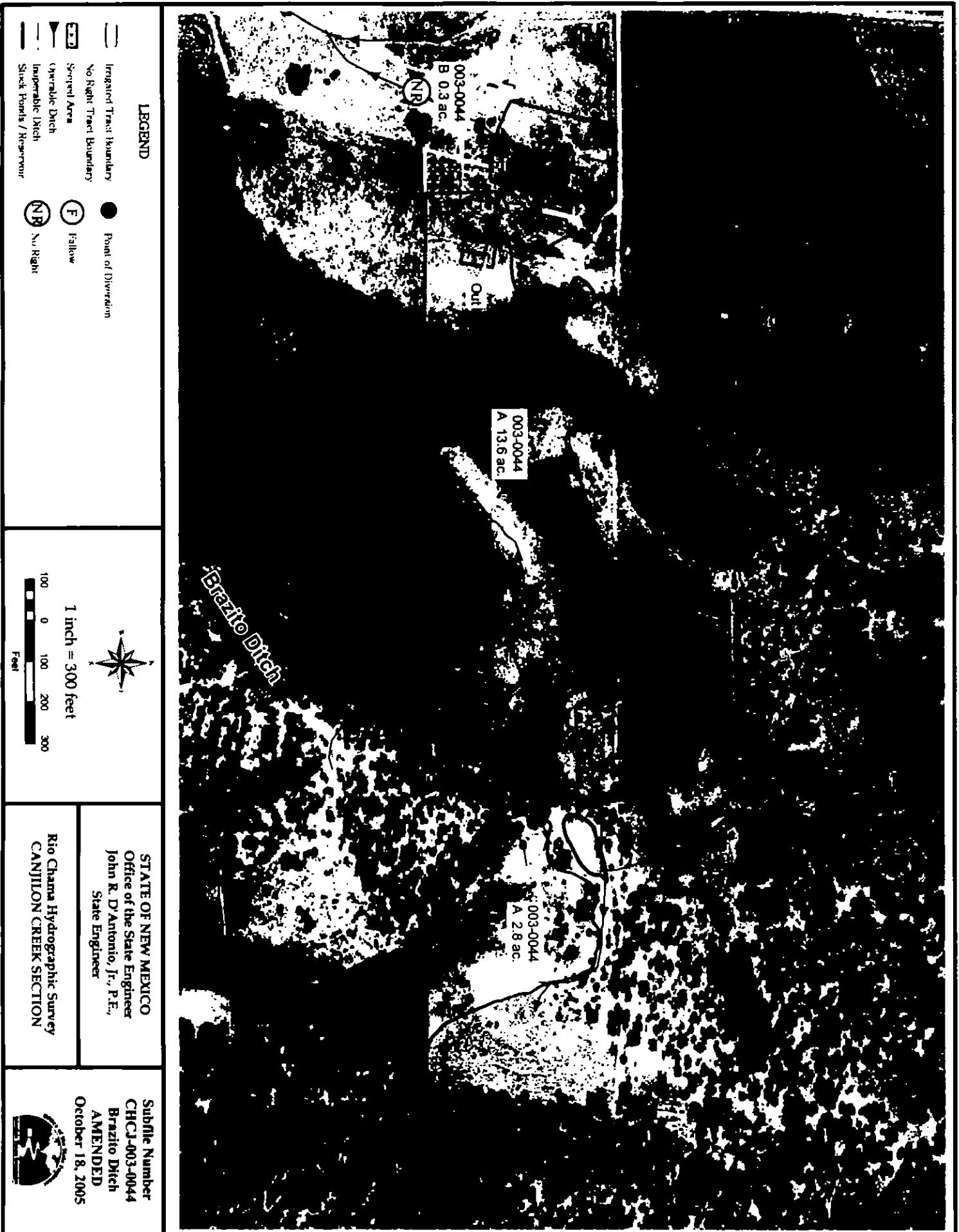
P.O. Box 619
Canjilon NM
87515

DATE:

4.4.06


ARIANNE SINGER
Special Assistant Attorney General

July 10, 2006
Date



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF NEW MEXICO

STATE OF NEW MEXICO <i>ex rel.</i>)	
State Engineer, <i>et al.</i> ,)	
)	
Plaintiffs,)	69cv07941-BB-ACE
)	
v.)	RIO CHAMA ADJUDICATION
)	
ROMAN ARAGON, <i>et al.</i> ,)	Canjilon Creek, Section 3
)	
Defendants.)	Subfile No.: CHCJ-003-0044
_____)	

ORDER VACATING DEFAULT JUDGMENT
AND ENTERING CONSENT ORDER

THIS MATTER is before the Court on the Motion of the Plaintiff, State of New Mexico, *ex rel.* State Engineer, filed June ____, 2006 (Doc. No. ____). The Motion requests an order to vacate the August 29, 2002 Order Granting Default Judgment (Docket No. 6835) with respect to Subfile CHCJ-003-0044 and that the Order Granting Default Judgment remain in effect with respect to the other defendants named therein. Having reviewed the Motion and being otherwise fully advised in the premises, I find the request to be well-taken, and that it should be GRANTED.

IT IS ORDERED, THEREFORE, that the August 29, 2002 Order Granting Default Judgment (Docket No. 6835) is VACATED with respect to Subfile CHCJ-003-0044, and only this subfile.

IT IS FURTHER ORDERED that the State and the defendants' consent order in Subfile CHCJ-003-0044 is ENTERED.

BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Recommended for approval:

SPECIAL MASTER VICKIE L. GABIN